

Attorney Docket No.: DEX-0207
Inventors: Macina et al.
Serial No.: 09/867,034
Filing Date: May 29, 2001
Page 4

REMARKS

Claims 1 and 15 are pending in the instant application. The rejection of claim 1 has been maintained under 35 U.S.C. § 112, first paragraph. Arguments presented by Applicants in the response filed March 6, 2003 were deemed not persuasive, as the Examiner suggests that arguments that the invention relates to nucleic acid sequence overexpressed in colon cancer are not commensurate in scope with the claims, drawn to any nucleic acids with 97% identity.

Accordingly, in an earnest effort to advance the prosecution of this case, Applicants have amended part (b) of claim 1 to clarify that the polynucleotide is overexpressed in colon cancer tissue. Support for this amendment is provided in the specification at pages 81-82 and pages 84-86. Thus, no new matter is added by this amendment.

Applicants believe that the pending claims as amended, which are clearly supported by the specification, set forth definitive structural features of the claimed polynucleotides so that one of skill in the art can predictably identify the encompassed molecules as being identical to those now claimed. Further, the claims as

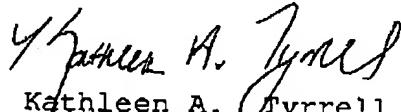
Attorney Docket No.: DEX-0207
Inventors: Macina et al.
Serial No.: 09/867,034
Filing Date: May 29, 2001
Page 5

amended describe distinguishing identifying characteristics sufficient to show that applicant was in possession of the claimed invention. See MPEP § 2163.02. Thus, the claims as amended meet the requirements of 35 U.S.C. § 112, first paragraph.

Withdrawal of this rejection is therefore respectfully requested.

Applicants believe that the foregoing comprises a full and complete response to the Office Action of record. Accordingly, favorable reconsideration and subsequent allowance of the pending claims is earnestly solicited.

Respectfully submitted,


Kathleen A. Tyrrell
Registration No. 38,350

Date: November 24, 2003

Licata & Tyrrell P.C.
66 E. Main Street
Marlton, New Jersey 08053

(856) 810-1515